



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY

WASHINGTON, D C. 20350-1000

SECNAVINST 4000.35

N09BH

17 August 1992

SECNAV INSTRUCTION 4000.35

From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY CULTURAL RESOURCES PROGRAM

Ref: (a) National Historic Preservation Act, as amended,
16 U.S.C. 470-470w-6
(b) 53 Federal Register 4742 "Guidelines for Federal
Agency Responsibilities under Section 110 of the
National Historic Preservation Act"
(c) Executive Order 11593 "Protection and Enhancement of
the Cultural Environment"
(d) Archaeological Resources Protection Act of 1979,
16 U.S.C. 470aa-mm
(e) Native American Graves Protection and Repatriation Act
25 U.S.C. 3001
(f) DOD Directive 4710.1, dtd 21 Jun 84, "Archeological
and Historic Resources Management" (NOTAL)

Encl: (1) Other Applicable Legislation, Directives and Guidance
(2) Department of the Navy Contacts for Cultural Resources
Inquiries

1. Purpose. To establish policy and assign responsibilities
within the Department of the Navy (DON) for fulfilling require-
ments of references (a) through (f).

2. Scope. This instruction applies to every component of the
DON, within the United States, the District of Columbia, and the
commonwealths, territories and possessions of the United States.

3. Definitions. The following definitions are provided to
clarify terminology used in this instruction:

a. Advisory Council on Historic Preservation. The indepen-
dent federal agency charged by Congress to advise the President,
Congress and federal agencies regarding cultural resources
preservation.



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b. **Cultural Resources.** The commonly used generic term for buildings, structures, sites, districts and objects of significance in history, architecture, archeology, engineering or culture.

c. **Cultural Resources Professional.** A person who meets professional qualifications in Anthropology, Archeology, History, Architecture, Preservation Planning or other preservation specialties set forth in reference (b).

d. **Cultural Resources Specialist.** A person without the full range of professional qualifications cited above, who performs cultural resources functions as a collateral duty and contracts out for professional expertise as needed.

e. **Department of the Navy Federal Preservation Officer (DONFPO).** A cultural resources professional appointed by the Secretary of the Navy who is supported and supervised by the Assistant Secretary of the Navy (Installations and Environment) to direct the DON cultural resources program.

f. **National Register of Historic Places.** The official national list of buildings, structures, districts, sites and objects that are significant in American history, architecture, archeology, engineering or culture, and are thereby worthy of consideration for possible preservation. The National Register is maintained by the National Park Service.

g. **State Historic Preservation Officer (SHPO).** The official appointed by the Governor in each state and territory to administer the State Historic Preservation program. SHPO duties include providing advice and assistance to federal agencies in carrying out their historic preservation responsibilities.

h. **Undertaking.** Any action, activity, program or project financed, assisted or licensed by the DON that may have an effect on a National Register resource.

4. Policy

a. References (a) through (e) impose legal obligations on the DON regarding its management of cultural resources. These requirements include establishing a program to locate and inventory all cultural resources under DON control, to evaluate them against National Register eligibility criteria, to consult with preservation agencies whenever a DON undertaking may affect eligible resources, and to ensure that eligible resources are not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate.

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b. The DON is a large-scale owner of historic buildings, districts, archeological sites, ships, aircraft and other cultural resources. Protection of these components of the nation's heritage is an essential part of the defense mission, and the DON is committed to responsible cultural resources stewardship.

c. Preservation considerations will be incorporated into routine DON management of historic buildings, districts, sites, ships, aircraft and other cultural resources. Preservation-specific materials and techniques will be used to achieve cost-effective cultural resources stewardship.

d. Consultation will be initiated with State Historic Preservation Officers, the Advisory Council on Historic Preservation, Native Americans, and other interested agencies and publics whenever the DON conducts or supports undertakings which may affect any National Register property. Commanders and commanding officers are responsible for initiating timely consultation at the earliest planning stages of an undertaking, following procedures specified at 36 CFR 800. This is an imperative required by the legislation and is an integral part of DON policy.

e. The Commander, Naval Facilities Engineering Command, is the principal advisor for the DON in matters related to historic buildings, structures, sites and districts. The Director, Naval Historical Center, is the principal advisor for the DON in matters related to historic naval ships, shipwrecks and aircraft. The Director, Marine Corps History and Museums Division, is the principal advisor for the DON in matters related to historic Marine Corps aircraft and other vehicles. Requests for information may be addressed to them.

5. Responsibilities

a. The Assistant Secretary of the Navy (Installations and Environment) shall:

(1) Provide direction to the DON Federal Preservation Officer.

(2) Convene and chair a standing DON Historic Preservation Board representing Navy and Marine Corps offices with preservation responsibilities which will meet at least twice each year to consider common problems and seek to avoid duplication of effort.

b. The Department of the Navy Federal Preservation Officer shall:

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(1) Develop DON cultural resources policy consistent with cultural resources legislation and DON operations.

(2) Provide guidance on implementation of cultural resources policy and advise all levels of the DON regarding compliance with cultural resources legislation and its applicability to DON programs.

(3) Monitor DON compliance with cultural resources legislation.

(4) Develop a DON cultural resources awareness and training program.

(5) Maintain liaison with the Office of Legislative Affairs (OLA) to coordinate with the Congress concerning legislative initiatives which may affect DON cultural resources policy.

(6) Represent DON interests on the Defense Cultural Resources Council and other combined Military Service cultural resources bodies.

(7) Be the principal point-of-contact to represent DON interests in cultural resource matters with the Department of the Interior, the Advisory Council on Historic Preservation, the National Conference of State Historic Preservation Officers, other Department of Defense components, federal and state agencies, Native American groups, and private preservation interest groups, as appropriate, and have approval authority for nominations to the National Register of Historic Places.

(8) Represent the Secretary in memoranda of agreement between the DON and state and federal agencies regarding preservation of cultural resources and loans of historical artifacts. This authority may be delegated.

(9) Provide leadership and direction to DON cultural resources specialists at all levels of command.

c. The Chief of Naval Operations and the Commandant of the Marine Corps shall be responsible for cultural resources legislative compliance within their respective services, and shall issue specific instructions and orders to implement cultural resources programs following applicable statutes and regulations. They shall:

(1) Ensure that resources are programmed for qualified cultural resources staffing, surveys, plans and other requirements for proper management and statutory compliance.

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(2) Provide cultural resources awareness and/or technical training for all levels of command.

(3) Maintain current information about cultural resources under their control or affected by their undertakings.

(4) Staff with qualified cultural resources professionals and specialists at appropriate organizational levels, whose responsibilities include:

(a) inventory and National Register evaluation of historic buildings, structures, districts, archeological sites, ships, aircraft and other cultural resources;

(b) preparation of installation-specific cultural resources management plans;

(c) routine management of cultural resources consistent with accepted professional standards;

(d) formulation of preservation alternatives for consideration whenever cultural resources are proposed for demolition, deactivation, reactivation, rehabilitation, transfer or disposal;

(e) timely interagency consultation and National Historic Preservation Act Section 106 procedural compliance whenever a DON-funded undertaking may affect any cultural resources;

(f) issuance of archeological permits prior to excavation of archeological sites or removal of artifacts;

(g) dissemination of technical guidance regarding maintenance, repair, storage and protection of cultural resources and proper procedures for interagency consultation; and

(h) routine record-keeping, with data retrieval capabilities, to assure that accurate information regarding DON cultural resources management is provided to Congress and other interested parties when required.

(5) Engage in joint planning and coordination of cultural resource matters which affect components of both the Navy and the Marine Corps.

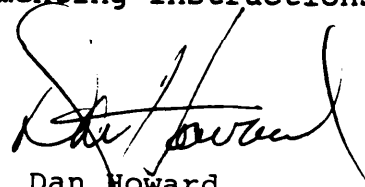
d. The General Counsel and Judge Advocate General shall provide legal advice and counsel to DON as appropriate.

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e. Commanders and commanding officers shall plan, program and budget for compliance with preservation legislation and encourage cost-effective stewardship of cultural resources under their control.

f. DON commands, activities and other components in foreign countries shall take into consideration the host country's cultural resources regulations, international agreements, Admiralty Law, and status of forces agreements.

6. Action. The Chief of Naval Operations and the Commandant of the Marine Corps shall issue implementing instructions within 120 days.



Dan Howard
Secretary of the Navy
Acting

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OTHER APPLICABLE LEGISLATION, DIRECTIVES AND GUIDANCE

- (a) 16 U.S.C. 431 "Antiquities Act of 1906"
- (b) 42 U.S.C. 4321 "National Environmental Policy Act of 1969"
- (c) 16 U.S.C. 1431 "Marine Protection Research and Sanctuaries Act of 1972"
- (d) 16 U.S.C. 469 "Archeological and Historic Preservation Act of 1974"
- (e) 42 U.S.C. 1996 "American Indian Religious Freedom Act"
- (f) 43 U.S.C. 2101 "Abandoned Shipwreck Act of 1987"
- (g) 10 U.S.C. 2572, "Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange"
- (h) 10 U.S.C. 7545, "Obsolete material and articles of historical interest: loan or gift"
- (i) 32 CFR 229 "Archaeological Resources Protection Act Final Uniform Regulations"
- (j) 36 CFR 60 "National Register of Historic Places"
- (k) 36 CFR 63 "Determinations of Eligibility for Inclusion in the National Register of Historic Places"
- (l) 36 CFR 65 "National Historic Landmarks"
- (m) 36 CFR 66 "Recovery of Scientific, Prehistoric, Historic and Archeological Data"
- (n) 36 CFR 800 "Protection of Historic Properties"
- (o) DODINST 4160.21-M, "Defense Reutilization and Marketing Manual", March 1990, Chapter 3F "Veterans' Organizations, Soldiers' Monument Associations, Museums, and Incorporated Municipalities" (NOTAL)
- (p) SECNAVINST 5755.1, "Navy Museums"
- (q) OPNAVINST 5090.1A, "Environmental and Natural Resources Program", Chapter 20 "Historic and Archeological Resources Protection"

Enclosure (1)

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- (r) OPNAVINST 5750.10H, "United States Naval Aviation Museum"
(NOTAL)
- (s) OPNAVINST 5750.13, "Historical Properties of the Navy"
- (t) OPNAVINST 5750.14A, "Naval Undersea Museum" (NOTAL)
- (u) OPNAVINST 5450.224, "Mission and Functions of the Director,
Naval Historical Center" (NOTAL)
- (v) NAVFACINST 11010.70 "Facility Planning and Protection of
Cultural Resources Outside the Department of the Navy"
(NOTAL)
- (w) NAVFACENGCOM, "Guidance for Preparing Historic and Archeo-
logical Resources Protection Plans at United States Navy
Installations" (NOTAL)
- (x) NAVFACENGCOM, "Historic Structures Preservation Manual"
(MO-913) (NOTAL)
- (y) National Research Council, "Paleontological Collecting"
(NOTAL)

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DEPARTMENT OF THE NAVY CONTACTS FOR CULTURAL RESOURCES INQUIRIES

- (a) HISTORIC BUILDINGS, STRUCTURES and DISTRICTS:
- (b) TERRESTRIAL ARCHEOLOGICAL RESOURCES and PERMITS:

Naval Facilities Engineering Command (Code 09P)
200 Stovall Street
Alexandria, VA 22332-2300

- (c) UNDERWATER ARCHEOLOGY (E.G. SHIPWRECKS AND SUNKEN AIRCRAFT):
- (d) MEMORIAL SHIPS/MUSEUM SHIPS:
- (e) HISTORIC NAVY AIRCRAFT:

Naval Historical Center
Washington Navy Yard (Bldg. 57)
Washington, DC 20374-0571

- (f) MARINE CORPS BUILDINGS, STRUCTURES, DISTRICTS, ARCHEOLOGY:

Headquarters Marine Corps (LFL)
Clarendon Square Building
3033 Wilson Boulevard
Arlington, VA 22201-5001

- (g) MARINE CORPS HISTORIC AIRCRAFT:

Marine Corps History and Museums Division
Washington Navy Yard (Bldg. 58)
Washington, DC 20374-0571

- (h) ADMIRALTY LAW:

Department of the Navy
Judge Advocate General (Code 31)
200 Stovall Street
Alexandria, VA 22332-2300

- (i) SHORE FACILITIES LEGAL MATTERS:

Department of the Navy
Office of General Counsel
Environmental Law Office
Crystal Plaza #5, Room 368
Washington, DC 20360-5000